

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Darius, et al.	Docket No.:	SOL002
Serial No.:	09/593,786	Art Unit:	3696
Filed:	June 14, 2000	Examiner:	Ella Colbert
For:	Mortgage Information Exchange Platform for a Broker to Select a Mortgage Lender		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants appeal the final rejection of all pending claims 1 – 6 and would respectfully establish the following. Claims 1 – 6 were rejected under 35 U.S.C. § 112, first paragraph, with Examiner asserting:

Claim 1 recites ‘simultaneously exposing generic mortgage profile information . . .’ There is nothing in Applicants’ Specification relating to ‘simultaneously exposing generic mortgage profile information,’ and a specific mortgage lender profile being instantiated with a set of unique lender characteristics for use . . . in completing the mortgage transaction. Applicants’ Specification recites ‘exposing generic mortgage profile information.’

Applicants respectfully traverse. Paragraph [0023] teaches “The VGWL object executes a pricing engine that exposes to the broker a set of one or more generic mortgage lender profiles from which the broker may select” (emphasis added). Figure 3 clearly shows exposing a plurality of lender profiles 306 simultaneously. Hence the claim terms are fully supported.

The limitation of “a specific mortgage lender profile being instantiated with a set of unique lender characteristics for use . . . in completing the mortgage transaction” is also supported. Figure 5 and Paragraph [0023] teach “When the broker makes a selection, the VGWL is instantiated with appropriate data to display lender-specific implementation details.” Paragraph [0026] provides further support for “unique lender characteristics” by reciting “the VGWL-enging presents the unique lender

characteristics . . . such as rate sheets, brochures, eligibility matrices” etc. For at least these reasons, claims 1 – 6 are fully supported and meet the requirements of 35 U.S.C. § 112, first paragraph.

Claims 1 – 6 were also rejected under 35 U.S.C. § 112, second paragraph. Examiner asserted that it is “unclear and indefinite as to what Applicants mean by ‘exposing to the broker . . . the at least one generic mortgage lender profile simultaneously exposing . . .’” When the entire claim element is read, however, the meaning is clear. In full, the claim element recites “exposing to the broker a set of at least one generic mortgage lender profile over said web-based information exchange, the at least one generic mortgage lender profile simultaneously exposing generic mortgage lender profile information for a plurality of different specific wholesale lenders” (emphasis added). In its entirety, the claim limitation is clear and unambiguous that what is being “simultaneously exposed” is information for different wholesale lenders.

As written, claim 1 states that the generic mortgage lender profile is simultaneously exposing information for a plurality of different lenders. This is supported by, e.g., Figure 3 wherein specific information for a plurality of wholesale lenders 306 is simultaneously presented via virtual quasi-generic wholesale lender platform 302. One skilled in the art would understand the term the “simultaneously exposing generic mortgage lender profile information for a plurality of different specific wholesale lenders” to mean the situation illustrated by way of example in Figure 3. Hence, the claim term is not ambiguous.

Examiner also asserted that the claim term “applying a given generic mortgage lender profile to given data . . . who meet criteria specified in the given data, responsive to entry by the broker of the given data” is vague and indefinite because, “It cannot be determined where the ‘given data’ is coming from.” This is incorrect. The claim element actually states, “responsive to entry by the broker of given data, applying a given generic mortgage lender profile to the data to identify a set of one or more specific wholesale lenders who meet criteria specified in the given data” (emphasis added). Hence, the

claim unambiguously identifies that the data is coming from an “entry by the broker.” As such, the claim element is clear and definite.

Examiner also asserted that the claim term “eligibility matrix” was not defined. The term eligibility matrix is a well known term readily understood by those in the field of mortgages. As noted in Paragraph [0026] of Applicants’ Specification, terms such as “rate sheets, brochures, eligibility matrices, lock, and registration sheets” represent known items of the type “normally distributed to brokers.” Because eligibility matrices is a common and well known term in the relevant art, there is no need for a definition in the Specification and claim 3 is clear and definite.

Claim 1 was rejected as anticipated by U. S. Patent No. 6,233,566 to Levine et al. (“Levine”). Claims 2-6 were rejected under 35 U.S.C. § 103(a) as unpatentable over Levine in view of U.S. Patent Publication No. 2004/0002915 to McDonald, *et al.* (hereinafter “McDonald”). Applicants respectfully traverse.

Claim 1 recites, “information exchange between a broker and a set of wholesale lenders.” An example of information exchange between a broker and a set of wholesale lenders is provided in Figure 1 of the present application, reproduced below for Examiner’s convenience. Note that the borrower is not a party to the information exchange.

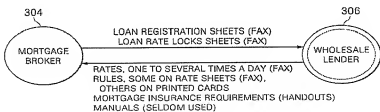
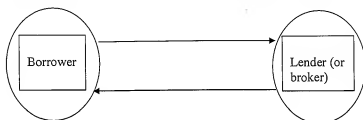


FIG. 1

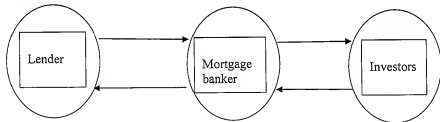
Examiner has asserted that Levine discloses, at col. 3, lines 7 – 49, “information exchange between a broker and a set of wholesale lenders.” This is incorrect. Column 3 of Levine discusses a

“loan origination phase” wherein “the potential borrower contacts the lender or a broker working with a lender” (Col. 3, lines 7 – 11). This can be illustrated as below:



Note that the only information exchange disclosed in Col. 3, lines 7 – 28, of Levine (wherein the loan origination phase is discussed) is between a borrower and a lender or broker. Levine nowhere discloses any information exchange between a broker and wholesale lenders during the loan origination phase, as required by claim 1.

Column 3 of Levine also discusses a “loan wholesaling phase” at lines 29 – 49. The only information exchange disclosed in this section of the reference, however, is between a lender and a mortgage banker. This can be illustrated as follows:



Again, note that Levine nowhere discloses information exchange between a broker and wholesale lenders in this section of the reference either.

While Levine also discuss the loan origination phase (col. 3, lines 7 – 29), Levine nowhere discloses communications between brokers and wholesale lenders. Rather, Levine discloses communications between a borrower and a lender or broker. Those are completely different communications than the information exchange between a broker and wholesale lenders recited in claim 1.

Finally, Levine discloses communications between a lender, a mortgage banker and investors for pooling loans at col. 3, lines 29 – 49 (also illustrated above). This teaching is simply inapposite to

the claimed information exchange between a broker and wholesale lenders as this portion of Levine addresses a phase in the loan life cycle wherein loans are simply being pooled for sale to investors – this is not part of the loan origination phase.

Examiner has also asserted that several sections in Levine address exposing one or more generic lender profiles. Examiner has cited to Col. 21, lines 41 – 48 and lines 49 – 59 for support. This section of Levine merely addresses loan wholesaling wherein lenders can maintain a “profile” including contact information and “a list of all loans or loan pools ... for sale in the system” (emphasis added). Again, this section of Levine provides no disclosure of exposing to a broker a “generic lender profile” that simultaneously exposes “generic mortgage profile information for a plurality of different specific wholesale lenders” as required by claim 1. This is for the simple reason that this disclosure in Levine is frankly unrelated to the exchange of information between a broker and a set of wholesale lenders. By contrast, Levine is disclosing communications between a lender and investors in a pool of loans. Such disclosure is simply not relevant to claim 1. Nothing in McDonald overcome these many shortcomings in the Levine reference.

In summary, the claims are definite, supported, and unambiguous. Neither Levine nor McDonal teach or suggest the claimed information exchange between a broker and wholesale lenders. Further, neither reference teaches or suggests exposing to a broker a generic lender profile that simultaneously exposes generic mortgage profile information for a plurality of different specific wholesale lenders. As such, claims 1 – 6 are patentably distinct over the references and should be allowed.

Respectfully submitted,

23 April 2010
Date


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